

JAN 20 2023

A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the employees'
2 retirement system should divest its investment portfolio of all
3 coal, oil, and gas companies to disassociate the State's
4 interests from that of the fossil fuel industry, to fulfill the
5 State's fiduciary responsibility in light of ongoing divestment
6 by other major fiduciaries such as the Norwegian Sovereign
7 Wealth Fund, and to demonstrate the State's commitment to
8 addressing climate change in practical application.

9 At the 2015 United Nations Climate Change Conference in
10 Paris, France, the nations of the world agreed that climate
11 change presents a palpable danger that must be addressed, and to
12 take all necessary actions to keep the increase in global
13 average temperature within 3.6 degrees Fahrenheit (two degrees
14 Celsius), and within 2.7 degrees Fahrenheit if possible (1.5
15 degrees Celsius) over the pre-industrial average temperature.
16 To fail to do so represents grave, existential risks to
17 humanity, agriculture, and biodiversity on a global scale in



1 general. The risks to the Hawaiian islands is perhaps even
2 greater in that we are currently unprepared to grow food locally
3 to support our population, and the failure of global agriculture
4 within the next few decades becomes a significant and increasing
5 risk.

6 Despite the findings of the 2015 Paris Accord, the
7 International Energy Agency recently reported that carbon
8 emissions have increased to record levels since 2010, and the
9 agency has projected that continuing this current trend of
10 carbon emissions will lead to approximately double the agreed
11 upon 3.6 degree Fahrenheit limit by 2050, which will result in
12 catastrophic changes in the earth's climate, weather patterns,
13 marine and terrestrial ecosystems and the ability to grow food.
14 This is society's present trajectory barring large-scale and
15 rapid changes in existing patterns of production, consumption,
16 and assessment of economic growth and societal wellbeing in
17 general.

18 Noting the International Energy Agency's report, Bevis
19 Longstreth, a former Commissioner of the United States
20 Securities and Exchange Commission, has recommended divestment
21 of fossil fuel companies as an important strategy to help



1 control carbon emissions and to reduce the financial impact on
2 investment funds resulting from the inevitable policy changes
3 that will be needed to reduce carbon emissions. The
4 announcement in November 2017 by the Norwegian Sovereign Wealth
5 Fund, the largest sovereign wealth fund in the world, of its
6 intention to divest from oil and gas investments, in addition to
7 its prior announcement in 2015 of its divestment from coal
8 investments, should provide sufficient notice to the fiduciaries
9 of the world that a global society predicated upon the continued
10 burning of fossil fuels will without a doubt be headed for
11 collapse, rapid reduction in the use of such fossil fuels and
12 the substitution of renewable energy alternatives is imperative,
13 such reduction and substitution will inevitably adversely impact
14 the market valuation of all fossil fuel companies, and holding
15 such fossil fuel securities can no longer be considered a wise
16 investment.

17 In May 2015, the University of Hawaii board of regents
18 incorporated a policy to divest its endowment funds of fossil
19 fuel investments citing the need to show leadership on the issue
20 of climate change, and the need to address concerns that fossil
21 fuel company values may decrease because the measures taken to



1 address climate change in the future may impede fossil fuel
2 assets from being developed.

3 Additionally, it is the judgment of the legislature that
4 investment in coal, oil, and gas companies can discourage
5 investment in competing renewable energy technologies, and
6 therefore impedes Hawaii from achieving its renewable portfolio
7 standard goal of one hundred per cent by 2045.

8 The purpose of this Act is to require the employees'
9 retirement system to divest its investment portfolio of coal,
10 oil, and gas companies within an unspecified number of years of
11 this Act's effective date.

12 SECTION 2. Definitions. As used in this Act, the
13 following definitions shall apply:

14 "Company" means any sole proprietorship, organization,
15 association, corporation, partnership, joint venture, limited
16 partnership, limited liability partnership, limited liability
17 company, or other entity or business association, including all
18 wholly-owned subsidiaries, majority-owned subsidiaries, parent
19 companies, or affiliates of such entities or business
20 associations, that exists for profit-making purposes.



1 "Direct holdings" means all securities of a company held
2 directly by the public fund or in an account or fund in which
3 the public fund owns all shares or interests.

4 "Fossil fuel company" means a company identified by a
5 Global Industry Classification Standard code in one of the
6 following sectors:

- 7 (1) Coal and consumable fuels;
- 8 (2) Integrated oil and gas; or
- 9 (3) Oil and gas exploration and production.

10 "Indirect holdings" means all securities of a company held
11 in an account or fund, such as a mutual fund, managed by one or
12 more persons not employed by the public fund, in which the
13 public fund owns shares or interests together with other
14 investors not subject to this Act.

15 "Public fund" means the employees' retirement system of the
16 State of Hawaii or the board of trustees in charge of the
17 employees' retirement system.

18 SECTION 3. Identification of companies. (a) By
19 January 1, , the public fund shall make its best efforts to
20 identify all fossil fuel companies in which the public fund has



1 direct or indirect holdings. Those efforts shall include, as
2 appropriate:

3 (1) Reviewing publicly available information regarding
4 fossil fuel companies. In conducting the review, the
5 public fund may rely on information provided by
6 nonprofit organizations, research firms, international
7 organizations, and government entities;

8 (2) Contacting asset managers contracted by the public
9 fund that invest in fossil fuel companies; and

10 (3) Contacting other institutional investors that have
11 divested from fossil fuel companies.

12 (b) By the first meeting of the public fund after
13 January 1, , the public fund shall assemble a fossil fuel
14 companies list of all identified fossil fuel companies in which
15 the public fund has direct holdings.

16 (c) The public fund shall update the fossil fuel companies
17 list on a quarterly basis based on evolving information from,
18 among other sources, those listed in subsection (a).

19 SECTION 4. Required actions. (a) The public fund shall
20 take the following actions in relation to the companies on the



1 fossil fuel companies list in which the fund owns direct or
2 indirect holdings:

3 (1) The public fund shall sell, redeem, divest, or
4 withdraw all publicly-traded securities of each
5 company identified in section 3 according to the
6 following schedule:

7 (A) By July 1, , at least twenty per cent of such
8 assets shall be removed from the public fund's
9 assets under management;

10 (B) By July 1, , at least forty per cent of such
11 assets shall be removed from the public fund's
12 assets under management;

13 (C) By July 1, , at least sixty per cent of such
14 assets shall be removed from the public fund's
15 assets under management;

16 (D) By July 1, , at least eighty per cent of such
17 assets shall be removed from the public fund's
18 assets under management; and

19 (E) By July 1, , one hundred per cent of such
20 assets shall be removed from the public fund's
21 assets under management.



1 (b) At no time shall the public fund acquire new assets or
2 securities of companies on the fossil fuel companies list.

3 (c) Notwithstanding anything in this Act to the contrary,
4 subsections (a) and (b) shall not apply to indirect holdings in
5 actively managed investment funds; provided that the public fund
6 shall submit letters to the managers of such investment funds
7 containing fossil fuel companies informing the managers that the
8 public fund shall be fully divested from fossil fuel companies
9 within five years and that the managers of such investment funds
10 shall provide an alternative within that time period or the
11 public fund shall divest from said actively managed investment
12 funds.

13 (d) The public fund shall also conduct a search of
14 actively managed investment funds with indirect holdings devoid
15 of fossil fuel companies.

16 SECTION 5. Reporting. (a) The public fund shall file a
17 publicly-available report to the legislature that includes the
18 fossil fuel companies list within ninety days after the list is
19 created, but no later than July 1, .

20 (b) Annually thereafter, the public fund shall file a
21 publicly-available report to the legislature that includes:



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- 1 (1) All investments sold, redeemed, divested, or withdrawn
- 2 in compliance with section 4;
- 3 (2) All prohibited investments under section 4; and
- 4 (3) Any progress made under section 4.

5 SECTION 6. Other legal obligations. With respect to

6 actions taken in compliance with this Act, including all good

7 faith determinations regarding companies as required by this

8 Act, the public fund shall be exempt from any conflicting

9 statutory or common law obligations, including any obligations

10 with respect to choice of asset managers, investment funds, or

11 investments for the public fund's securities portfolios.

12 SECTION 7. If any provision of this Act, or the

13 application thereof to any person or circumstance, is held

14 invalid, the invalidity does not affect other provisions or


15 applications of the Act that can be given effect without the

16 invalid provision or application, and to this end the provisions

17 of this Act are severable.

18 SECTION 8. This Act shall take effect upon its approval.

19

INTRODUCED BY: 



S.B. NO. 423

Report Title:

Coal; Oil; Gas Company Divestment; Fossil Fuel; ERS

Description:

Requires the employees' retirement system to divest its investment portfolio of coal, oil, and gas companies within an unspecified number of years and to report certain information to the legislature.

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